**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**WRIT PETITION NO. 5345 OF 2005**

Yusuf Ahmed Baig & Ors. ... Petitioners
Versus
The Mominpada Majid Yakub Baig Trust and Ors. ... Respondents

Mr. H.A. Solkar, Sr. Counsel for Petitioners.
Mr. Rajiv Patil for R. No. 1.
Mrs. M.P. Thakur, A.G.P. for R.No. 2.
Mr. A.R. Shaikh for R. No. 3.

**CORAM : F.I. REBELLO &**
**DR.D.Y.CHANDRACHUD,JJ.**
**DATED : FEBRUARY 20, 2006**

P.C.

. Rule. Heard forthwith.

. The Petitioners approached this court to impugn the order dated 15.7.2004 whereby the application by respondent No. 1 for amendment to the scheme was allowed. From the application, it appears that the Petitioners herein were not added as parties. Apart from that in Para 15 of the Petition, the Petitioners have specifically averred that they were not given notice of the hearing. They were entitled to the benefits of income in the scheme. In other words, their civil rights were involved. Though respondent No. 1 has filed reply, there is no denial to the said

specific averments that they were not heard. Considering that the civil rights of the Petitioners have been affected, the ends of justice will be met if the following order is passed :

. The impugned order dated 15.7.2004 is set aside.

. The matter is remanded back to the District Judge, Raigad, Alibag for reconsideration of Civil M.A. No. 64 of 2004 after giving notice to the Petitioners herein. The Respondent No. 1 if they have not added Petitioners as respondents, to carry out the amendment to the cause title within 15 days from today. On such amendment, the District Judge to give notice to the added respondents and thereafter to dispose of the application not later than eight weeks from the notice being served on the respondents. With the above directions, petition stands disposed of. Rule made absolute accordingly. No order as to costs.

. The grievance of the Petitioner that they have not been paid maintenance of the year 2002 should be considered by the District Judge and direction be issued accordingly.

**(F.I. REBELLO,J.)**

**(DR. D.Y. CHANDRACHUD,J.)**